

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

LUSTER SMITH, ET AL.  
Plaintiffs

CIVIL ACTION NO. 1:16-CV-0223

VERSUS

ALLSTATE INSURANCE  
COMPANY, Defendant

MAGISTRATE JUDGE PEREZ-MONTES

---

**MEMORANDUM RULING AND ORDER**

Before the Court is a Motion for Partial Summary Judgment (Doc. 25) filed by Defendant Allstate Insurance Company (“Allstate”). Plaintiffs Luster Smith, Kevin C. Smith, and Vallard Smith (collectively, “Plaintiffs” or “the Smiths”), oppose the motion.

Plaintiffs seek an award for penalties and attorney’s fees under La. R.S. 22:1892 and 1973. Plaintiffs allege Allstate acted arbitrarily, capriciously, and without probable cause in denying coverage for a July 5, 2015 house fire which destroyed Plaintiffs’ residence and its contents. Allstate maintains it properly denied coverage – and did not act in bad faith – because its investigation indicated that Plaintiff Luster Smith started the house fire himself, and/or made material misrepresentations during Allstate’s investigation. Either conclusion would have supported Allstate’s denial of coverage pursuant to undisputed policy exclusions.

Based upon the current record, the Court has serious doubts that there are genuine issues of fact regarding Plaintiffs’ entitlement to penalties and attorney’s fees. Nonetheless, “even if the standards of Rule 56 are met, a court has discretion

to deny a motion for summary judgment if it believes that 'a better course would be to proceed to a full trial.'" Kunin v. Feofanov, 69 F.3d 59, 62 (5th Cir.1995) (quoting Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505, 2513 (1986)).

Trial in this matter will begin on August 29, 2017. The evidence to be addressed at trial will include most or all of the evidence presented by Allstate to support its motion. Moreover, the evidence presented by Allstate to support its motion may be affected by live testimony, credibility determinations, or other evidence to be adduced at trial. In the Court's discretion, the better course of action is thus to defer the issues raised by Allstate's motion to the merits at trial.

Accordingly, the Motion for Partial Summary Judgment (Doc. 25) filed by Defendant, Allstate Insurance Company, is hereby DENIED.

THUS DONE AND SIGNED in Alexandria, Louisiana, this 17th day of August, 2017.



---

JOSEPH H.L. PEREZ-MONTES  
UNITED STATES MAGISTRATE JUDGE